

**INTERGOVERNMENTAL AGREEMENT**

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE UNITED STATES DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
KINGMAN FIELD OFFICE

THIS AGREEMENT is entered into 26th November, 2002, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the UNITED STATES DEPARTMENT OF THE INTERIOR, BUREAU OF LAND MANAGEMENT, Kingman District, acting by and through its Contracting Officer (the "BLM").

**I. RECITALS**

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The BLM is empowered by the Federal Land Policy Management Act of 1976 (Public Law 94-579) to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the BLM.

3. The State's No Name and Placeritas roadway improvement project has caused the loss of approximately 3.3 acres of waters for the United States. Special Condition #1 of the Corps of Engineers (COE) Individual 404 permit (#2001-01152) requires payment to the BLM in lieu of in-kind mitigation of \$33,000. The BLM has agreed to dedicate this in-lieu fee payment for the purchase of lands for preservation purposes and / or habitat restoration projects on either the Big Sandy River or Burro Creek. The BLM has agreed to accomplish the habitat restoration mitigation on behalf of the State, in an amount not to exceed \$33,000.00, all at State expense, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

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NO. 25650  
Filed with the Secretary of State  
Date Filed: 11/26/02  
Betty Bayless  
Secretary of State

BY: William D. Graenewald

## **II. SCOPE OF WORK**

### **1. The BLM shall:**

a. Invoice the State an amount not to exceed \$33,000.00 for costs associated to complete the Project. Request for payment shall be submitted with the "ADOT Progress Payment Report Form (attached). Electronic forms can be requested through Joint Project Administration, at the address provided under Section III. paragraph 6.

b. Deposit said \$33,000.00, in BLM account 7712 until completion of the Project. Any monies not expended for the Project shall be returned to the State upon termination of this agreement. The Project is intended to be complete by December 31, 2007. If the Project is not completed as noted herein, the parties may extend the agreement by Amendment.

c. Purchase a minimum of 3.3 acres of replacement wetland or riparian habitat lands evidenced by Deed, Easement, or other instrument deemed acceptable by BLM.

d. All lands in excess of the 3.3 acres, which are purchased with State funding under the terms of this agreement, shall be banked as credit acreage for compensation of impacts to waters of the United States on future State projects.

e. Provide the State certified/recorded copies of all pertinent escrow closing statements, title insurance policies and instruments of conveyance associated with purchasing said Wetlands.

f. Acquire the parcel(s) in accordance with applicable federal laws and policies with the appraisal conducted according to the Uniform Appraisal Standards for Federal Land Acquisitions (published by the Department of Justice, 2000).

g. Provide, on an annual basis to the State, an accounting of the monies expended for the Project.

h. Upon completion of the land acquisition associated with this Project, the land shall be zoned for uses beneficial to wetland and riparian management.

### **2. The State shall:**

a. Within 30 days upon receipt and approval of an invoice from BLM, remit an amount not to exceed \$33,000.00, for costs associated to complete the Project.

b. Allow the BLM to purchase land in excess of the 3.3 acres referenced above, with any remaining funds on deposit with BLM. Said lands shall be banked as credit acreage for compensation of impacts to waters of the United States on future State highway projects within the Kingman Field Office administrative area.

## **III. MISCELLANEOUS PROVISIONS**

1. This agreement shall remain in force and effect until completion of said project and final accounting. However, this agreement may be cancelled prior to the disbursement of funds transferred under this agreement with thirty (30) days written notice to the other party.

2. This agreement shall become effective upon signature of the parties and filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511, as it relates to conflicts of interest on behalf of State employees.

4. The provisions of Arizona Revised Statutes Section 35-214 relating to 5 year record retention for audit purposes are applicable to this contract.

5. Applicable laws of the State and Federal government shall govern the rights of the parties with respect to the performance of this agreement. The parties hereto shall select a process for the resolution of claims or disputes related to this agreement that is compliant with applicable laws and regulations of the State and Federal government and acceptable to the State and Federal government. Such process will include a provision for arbitration.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation  
Joint Project Administration  
205 S. 17th Avenue – Mail Drop 616E  
Phoenix, AZ 85007

Bureau of Land Management  
**Kingman Field Office**  
2475 Beverly Avenue  
Kingman, AZ 86401  
John.Christensen@blm.gov

7. No member of, or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this agreement, or to any benefits that may arise therefrom; but this provision shall not be construed to extend to this agreement if made with a corporation for its general benefit.

8. Attached hereto and incorporated herein is the written determination of counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

**US DEPARTMENT OF THE INTERIOR**  
Bureau of Land Management

**STATE OF ARIZONA**  
Department of Transportation

By   
JOHN CHRISTENSEN, Manager  
Kingman Field Office

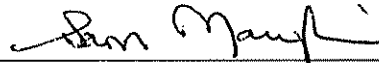
By   
WILLIAM J. HIGGINS, P.E.  
Deputy State Engineer

JPA 02-85

RESOLUTION

BE IT RESOLVED on this 6th day of August, 2002, that I, the undersigned VICTOR M. MENDEZ, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Intermodal Transportation Division, to enter into an agreement with the Bureau of Land Management, for the purpose of defining the responsibilities to participate in the mitigation of 3.3 acres of waters of the United States associated with the design, construction and maintenance of roadway reconstruction of US 93 from MP 153.0 to MP 156.5, for the benefit and safety of the traveling public.

Therefore, authorization is hereby granted to draft said agreement, which, upon completion, shall be submitted to the Staff Engineer for approval and execution.



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SAM MAROUFKHANI, P.E., Deputy State Engineer  
Development / Intermodal Transportation Division  
for VICTOR M. MENDEZ, Director

APPROVAL OF THE INTERIOR BUREAU OF LAND MANAGEMENT

KINGMAN FIELD OFFICE ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the BUREAU OF LAND MANAGEMENT KINGMAN FIELD OFFICE and declare this agreement to be in proper form and within the powers and authority granted to the BLM under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 22nd day of October, 2002.

A handwritten signature in cursive script, appearing to read "John R. Chastain", written over a horizontal line.

RESOLUTION NO.

A RESOLUTION APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE STATE OF ARIZONA, ACTING BY AND THROUGH ITS DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, MOHAVE COUNTY AND THE UNITED STATES OF AMERICA, BUREAU OF LAND MANAGEMENT PROVIDING FOR MITIGATION TO WETLAND RESOURCES RESULTING FROM CONSTRUCTION OF US 93 NO- NAME PLACERTIAS CREEK SECTION.

WHEREAS, the bureau of Land Management reviewed the agreement this 30<sup>th</sup> day of October, 2002; and

WHEREAS, the State of Arizona, acting by the through its Arizona Department of Transportation desires to enter into an Intergovernmental Agreement with the United States of America, Bureau of Land Management for participating in such project; and

WHEREAS, the United States of America, Bureau of Land Management is empowered to enter into this agreement by the Federal Land Policy and Management Act of 1976, Public Law 94-979, Sec. 307(b)

NOW, THEREFORE, BE IT RESOLVED that the State of Arizona enter into the Intergovernmental Agreement with the United States of America, Bureau of Land Management for mitigation to wetland resources resulting from construction of U. S. 93, No-Name/ Placertias Creek section.

PASSED, APPROVED And ADOPTED THIS 30th day of October, 2002.

  
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Manager, Kingman Field Office



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL  
TRANSPORTATION SECTION

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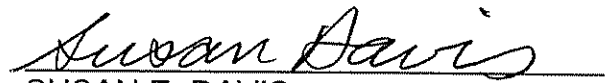
**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-1873TRN (JPA 02-085), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED November 14, 2002.

JANET NAPOLITANO  
Attorney General

  
SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section

/srs

Att.